



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 22, 24, 27, 30, 74, 80, 90, 95, and 101

[WT Docket No. 10-112; FCC 17-105]

Amendment of the Commission's Rules to Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission seeks additional comment on a range of possible actions that may advance the Commission's goal of increasing the number of rural Americans with access to wireless communications services. In order to encourage investment in wireless networks, facilitate access to scarce spectrum resources, and promote the rapid deployment of mobile services to rural Americans, the Commission seeks comment on additional, reasonable construction obligations during renewal terms that are targeted to reach rural areas that lack adequate service.

DATES: Interested parties may file comments on or before **[INSERT DATE 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**, and reply comments on or before **[INSERT DATE 60 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments, identified by WT Docket No. 10-112, by any of the following methods:

- **Electronic Filers:** Comments may be filed electronically using the Internet by accessing the Commission's Electronic Comment Filing System (ECFS): <http://fjallfoss.fcc.gov/ecfs2/>. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (1998).
- **Paper Filers:** Parties who choose to file by paper must file an original and one copy of each filing. Generally if more than one docket or rulemaking number appears in the caption of this

proceeding, filers must submit two additional copies for each additional docket or rulemaking number. Commenters are only required to file copies in GN Docket No. 13-111.

- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
 - All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of before entering the building.
 - Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
 - U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

People with Disabilities: To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (TTY).

FOR FURTHER INFORMATION CONTACT: Anna Gentry, Anna.Gentry@fcc.gov, of the Wireless Telecommunications Bureau, Mobility Division, (202) 418-2887. For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams at (202) 418-2918 or send an email to PRA@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking ([FNPRM](#)) in WT Docket No. 10-112, FCC 17-105, released on August 3, 2017. The complete text of the [FNPRM](#) is available for viewing via the Commission's ECFS website by entering the docket number, WT Docket No. 10-112. The complete text of the [FNPRM](#) is also available for public inspection and copying from 8:00 a.m. to 4:30 p.m. Eastern Time (ET) Monday through

Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street S.W., Room CY-B402, Washington, DC 20554, telephone 202-488-5300, fax 202-488-5563.

This proceeding shall continue to be treated as a “permit-but-disclose” proceeding in accordance with the Commission’s ex parte rules (47 CFR 1.1200 et seq.). Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter’s written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and must be filed consistent with rule 1.1206(b). In proceedings governed by rule 1.49(f) or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (e.g., .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission’s ex parte rules.

Synopsis

I. INTRODUCTION

The FNPRM seeks comment on a range of possible actions that may advance the Commission’s goal of increasing the number of rural Americans with access to wireless communications services. A

core Commission goal is to facilitate access to scarce spectrum resources and ensure that wireless communication networks are widely deployed so that every American, regardless of location, can benefit from a variety of communications offerings made available by Commission licensees. In pursuit of that goal, the Commission has, through various service rulemakings, created flexible-use geographic licenses and established initial term construction obligations tailored to specific bands, many of which were adopted with the stated intent of promoting service in rural areas.

Although the Commission's efforts have facilitated the rapid development of a wide variety of wireless services over the past decade, there remains a real and growing digital divide between rural and urban areas in the United States. While the construction obligations associated with geographic licenses are intended to encourage wide deployment of wireless networks, those obligations require licensees to provide service to only portions of the license area, not the entire area. Even the Commission's most aggressive initial term construction obligation, which requires licensees to cover 70 percent of the geographic area of the license, likely leaves significant portions of rural America, where deployment costs may be higher and demand lower, without meaningful mobile coverage. In addition, the Commission's current rules do not require any additional construction after the initial license term – that is, during subsequent renewal terms.

Therefore, in order to encourage investment in wireless networks, facilitate access to scarce spectrum resources, and promote the rapid deployment of mobile services to rural Americans, the FNPRM seeks comment on whether additional, reasonable construction obligations during renewal terms that are targeted to reach rural areas that lack adequate service would help achieve the Commission's goals. The FNPRM seeks comment on three methods for applying any such obligations: (1) applying any new obligations on a prospective basis only to new licenses issued in the future; (2) establishing an “opt-in” framework to facilitate additional buildout; or (3) applying any new obligations prospectively to all existing and future licensees of flexible geographic licenses.

In the event the Commission adopts construction obligations beyond a licensee's initial term requirements – whether on the opt-in or mandatory basis described above – the FNPRM seeks comment on the obligations that would be most effective to achieve the Commission's goals. Specifically, the FNPRM seeks comment on an additional construction obligation beyond a licensee's initial term construction obligations, under which the licensee would be required to exceed its original construction metric by an additional 10 percent in the next full renewal term, followed by incremental increases of five or 10 percent in subsequent renewal terms. The FNPRM also seeks comment on other, targeted construction obligations that might achieve the Commission's goal of expanded coverage with respect to spectrum bands used to provide service to consumers. In light of the wide variety of flexible geographic licenses and their potential uses, the FNPRM seeks comment on whether to apply any additional renewal term construction obligations to all flexible geographic licenses, or whether certain types of licenses should be excluded. Similarly, the FNPRM seeks comment on whether any additional renewal term obligations should vary depending on the type of license, or the specific band, to which they would apply, and, if so, why those obligations should vary.

In the event the Commission adopts additional construction obligations for license renewal terms, the FNPRM seeks comment on various implementation issues. First, the FNPRM seeks comment on requiring licensees to meet the additional construction obligations at the end of the next full renewal license term. As an alternative, the FNPRM seeks comment on requiring licensees to satisfy at least some additional renewal term construction obligations by a certain number of years into their renewal term, e.g., five years into a ten-year renewal term. The FNPRM seeks comment on these and any other considerations concerning the timeframe for implementation that will most effectively facilitate rapid deployment of wireless communications services to rural areas. The FNPRM also seeks comment on possible renewal reporting obligations that could provide insights into the adoption and affordability of services being provided by wireless carriers and that may help achieve our goal of closing the digital divide, particularly in rural areas.

In order to create incentives for additional license construction, including investment in rural areas, the FNPRM seeks comment on appropriate penalties should licensees fail to meet those obligations. First, the FNPRM seeks comment on the “keep-what-you-serve” penalty for failure whereby a licensee’s authorization would terminate automatically for those geographic portions of its license area in which the licensee is not providing service as of the construction deadline, and those unserved areas would be returned to the Commission’s inventory for reassignment. Second, the FNPRM seeks comment on a “use or offer” penalty whereby a licensee that fails to meet its construction obligation would retain its entire license area, but would be required to negotiate in good faith with any third party seeking to acquire or lease spectrum in the unserved areas of the license. Third, the FNPRM seeks comment on a penalty resulting in total loss of the license or a reduction in license area, including loss of areas that the licensee serves. Finally, the FNPRM seeks comment generally on other penalties, including forfeitures, that could be used as alternatives to, or in combination with, those described above.

In the event that the Commission ultimately adopts penalties that result in the return of whole or partial licenses to the Commission’s inventory for reassignment, the FNPRM seeks comment on various approaches for relicensing unused spectrum. First, the FNPRM seeks comment on applying a two-phased on-demand relicensing approach, such as the framework established by the Commission in the 700 MHz Second Report and Order, under which interested parties would be allowed to file applications to serve any amount of available unserved area. Under the framework established there, there is a 30-day Phase 1 filing window during which only the failing licensee is barred, followed by a Phase 2 window, which is open to all interested parties, including the failing licensee, and runs until all unserved areas in the market are relicensed. In the alternative, the FNPRM seeks comment on relicensing spectrum for unserved areas through a re-auction framework that would offer all remaining unserved areas in the license together in a single auction. the FNPRM seeks comment on the respective costs and benefits of both approaches to relicensing and any additional or alternative conditions that might serve our rural coverage objectives.

Finally, the FNPRM seeks comment on other possible changes to the Commission's rules that might reduce regulatory burdens to improve the renewal process and facilitate the efficient allocation and use of spectrum. The FNPRM seeks comment on whether it may be appropriate to extend the license term, upon renewal, of subject licenses. For example, a 10-year license term could be extended to 15 years, as an alternative to or in combination with any other approach to the timeframe for implementation. In addition, Verizon proposed that the Commission "adopt a presumption that band-specific service rules or conditions will sunset at renewal, absent an affirmative finding that they are necessary in the public interest." The FNPRM seeks comment on what types of rules or conditions should be included under Verizon's proposed sunset presumption, including specific examples, and whether there are categories of regulations that should be excluded from any sunset-at-renewal presumption.

II. PROCEDURAL MATTERS

Initial Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 603), the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this document. We request written public comment on the IRFA. Comments must be filed in accordance with the same deadlines as comments filed in response to the FNPRM as set forth on the first page of this document, and have a separate and distinct heading designating them as responses to the IRFA. The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, will send a copy of the FNPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

Initial Paperwork Reduction Act Analysis

The FNPRM contains proposed new information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and OMB to comment on the information collection requirements contained in this document, as required by PRA. In addition,

pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might “further reduce the information collection burden for small business concerns with fewer than 25 employees.”

FEDERAL COMMUNICATIONS COMMISSION.

Katura Jackson,
Federal Register Liaison Officer.

Office of the Secretary.

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